

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

OLIVER GRAY,

Petitioner,

v.

J. LYNCH,

Respondent.

No. 2:20-cv-00692-JAM-CKD

ORDER

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On September 21, 2020, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. Neither party has filed objections to the findings and recommendations.

The court presumes that any findings of fact are correct. See Orand v. United States, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo. See Britt v. Simi Valley Unified School Dist., 708 F.2d 452, 454 (9th Cir. 1983). Having reviewed the file, the court finds the findings and recommendations to be supported by the record and by the magistrate judge's analysis.

1 Accordingly, IT IS HEREBY ORDERED that:

- 2 1. The findings and recommendations filed September 21, 2020, are adopted in full.
- 3 2. Respondent's motion to dismiss (ECF No. 13) is granted.
- 4 3. The petition for writ of habeas corpus is dismissed without prejudice as an
5 unauthorized second or successive application.
- 6 3. The Clerk of Court shall close this action.
- 7 4. The court declines to issue the certificate of appealability referenced in 28 U.S.C. §
8 2253.

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10 DATED: November 4, 2020

/s/ John A. Mendez

11 THE HONORABLE JOHN A. MENDEZ
12 UNITED STATES DISTRICT COURT JUDGE

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